

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

PATTI DENG-WONG,

Plaintiff,

vs.

**SAFECO INSURANCE COMPANY
OF INDIANA,**

Defendant.

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CIVIL ACTION NO.:

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1446(a) and Local Rule CV-81(a), Defendant Safeco Insurance Company of Indiana (“Safeco” or “Defendant”), files this Notice of Removal, hereby removing this action from the 401st District Court of Collin County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division. Removal is based on diversity jurisdiction because there is complete diversity between Plaintiff Patti Deng-Wong (“Plaintiff”) and Safeco, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of its Notice of Removal, Defendant would respectfully show the Court as follows:

**I.
INTRODUCTION**

This dispute arises from Plaintiff’s claim for storm damage to Plaintiff’s property located at 4409 Staten Island Drive, Plano, Texas 75024-3867 (the “Property”). Plaintiff alleges that Defendant breached a policy of insurance, and violated certain provisions of the Texas Insurance Code and Texas Deceptive Trade Practices Act (“DTPA”) by, among other things, failing to pay Plaintiff’s claim for damages resulting from an alleged storm.

On February 13, 2017, Plaintiff filed her Original Petition in the District Court, 401st Judicial District of Collin County, Texas. Safeco was personally served with a citation and a copy of Plaintiff's Original Petition on February 17, 2017, through its registered agent for service of process. On March 16, 2017, Defendant timely filed an answer to Plaintiff's Original Petition. This Notice of Removal is being filed within thirty (30) days of service of the Petition, and is thus timely filed under 28 U.S.C. §1446(b).

II.

BASIS FOR REMOVAL

A. DIVERSITY OF CITIZENSHIP

Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. § 1332(a). Plaintiff is a resident and citizen of Texas. *See* Plaintiff's Original Petition, at ¶ 1. Safeco Insurance Company of Indiana is a corporation organized under the laws of the State of Massachusetts, with its principal place of business in Boston, Massachusetts. Accordingly, there exists complete diversity of citizenship between the Plaintiff and Safeco as the only properly joined defendant.

B. AMOUNT IN CONTROVERSY

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff's complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff's Original Petition that her claims exceed \$75,000.00. In paragraph 4 of the Petition, Plaintiff states: "Plaintiff currently seeks monetary relief over \$100,000, but not more than \$200,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorneys' fees." Plaintiff's Original Petition, at ¶ 4.

Therefore, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court, and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiff's citizenship is diverse from Safeco. Finally, as alleged in her Petition, Plaintiff seeks to recover in excess of \$100,000.00 from Defendant. Therefore, the amount in controversy in this case clearly exceeds \$75,000.00.

III. **CONSENT TO REMOVAL UNNECESSARY**

Safeco is the only defendant named in Plaintiff's Petition. Thus, no additional consent is needed for removal.

IV. **COMPLIANCE WITH PROCEDURAL REQUIREMENTS**

As required by Local Rule CV-81, filed concurrently with this Notice of Removal is a completed civil cover sheet. Additionally, the following exhibits are attached:

- **EXHIBIT A:** Supplemental Civil Case Cover Sheet – listing all parties in this case and the current status of the state court proceeding; listing of attorneys in this case, including each such attorney's bar number, address, telephone number and party represented; and the name and address of the state court from which this case is being removed;
- **EXHIBIT B:** A certified copy of the Register of Actions in the state court action; and
- **EXHIBITS C-1 to C-2:** A copy of each document filed in the state court action.

Pursuant to Section 28 U.S.C. §1446(d), Defendant will give written notice of filing of this Notice of Removal to all adverse parties promptly after the filing of same.

Pursuant to 28 U.S.C. §1446(d), Defendant will file a true and correct copy of this Notice of Removal with the District Clerk, 401st Judicial District, Collin County, Texas promptly after filing of same.

V.
CONCLUSION AND PRAYER

Based on the foregoing, Defendant Safeco Insurance Company of Indiana respectfully requests that the above-captioned action now pending in the District Court, 401st Judicial District, Collin County, Texas be removed to the United States District Court for the Eastern District of Texas, Sherman Division.

Respectfully submitted,

/s/ Colin R. Batchelor

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been forwarded to Plaintiff's counsel of record via electronic means and/or facsimile on March 17, 2017, in accordance with the FEDERAL RULES OF CIVIL PROCEDURE.

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